

1 HB690
2 169171-1
3 By Representative Ford
4 RFD: Ways and Means Education
5 First Read: 21-MAY-15

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8 SYNOPSIS: Currently, members of the Teachers'
9 Retirement System and the Employees' Retirement
10 System may not become new participants in the
11 Deferred Retirement Option Program (DROP) after
12 March 24, 2011.

13 This bill would reestablish the DROP program
14 for tier I and tier II retirement participants,
15 would provide for the requirements and terms of
16 participation in the program, and would provide for
17 maximum salary eligibility, rates of return on
18 investments, use of accumulated sick leave for
19 eligibility, exit of DROP participants, and
20 cost-of-living adjustments.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 To amend Sections 16-25-150 and 36-27-170, Code of
27 Alabama 1975, relating to the Deferred Retirement Option Plan

1 (DROP), to allow new participation of state employees,
2 including public safety employees, and education employees in
3 tier I and tier II retirement plans; to provide for
4 eligibility requirements and benefits for participants in the
5 DROP program; and to provide for rates of return on
6 investments, use of accumulated sick leave, exit of
7 participants from DROP, a maximum salary eligibility, and
8 cost-of-living adjustments.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 16-25-150 and 36-27-170, Code of
11 Alabama 1975, are amended to read as follows:

12 "§16-25-150.

13 "(a) As governed by this subsection, there exists as
14 a part of this retirement system an optional account known as
15 the Deferred Retirement Option Plan, which may be cited as
16 "DROP." The DROP program, which was ended for new participants
17 on March 24, 2011, pursuant to Act 2011-27, is hereby
18 reestablished for new participants on and after the effective
19 date of this amendatory act. The purpose of DROP is to allow,
20 contractually, in lieu of immediate withdrawal from service
21 and receipt of a retirement allowance, continued employment
22 for a specific period of time, coupled with the deferral of
23 receipt of a retirement allowance until the end of the period
24 of participation, at which time the member shall withdraw from
25 service.

1 "(b) Participation in DROP is an option available to
2 any member of this retirement system who meets all of the
3 following requirements:

4 "(1) Has at least 25 years of creditable service
5 ~~exclusive of sick leave for tier I retirement; or who has at~~
6 least 10 years of creditable service for tier II retirement.

7 "(2) Is at least 55 years of age for a tier I
8 retirement; or who is at least 56 years of age for a tier II
9 retirement.

10 "(3) Is eligible for service retirement.

11 "(4) Has an annual salary of not more than one
12 hundred twenty-five thousand dollars (\$125,000), adjusted for
13 inflation commencing January 1, 2017. It is further provided,
14 however, that an employee whose salary exceeds the limit
15 provided in this subdivision may participate up to the
16 \$125,000 limit if he or she is otherwise eligible.

17 "(c) An election to participate in DROP may be made
18 in one year increments not to exceed five years, nor to be
19 less than three years. A member may participate in DROP only
20 one time. Any voluntary termination ~~within the first three~~
21 ~~years~~ in DROP ~~will~~ shall not result in a forfeiture of ~~the~~ any
22 portion of his or her DROP account that constitutes the
23 retirement allowance. ~~However,~~ nor shall member contributions
24 ~~will not be forfeited, nor will~~ or any interest attributable
25 to the retirement allowance ~~be forfeited~~. There ~~will~~ shall be
26 no penalty forfeiture if the participation period is
27 interrupted due to an involuntary dismissal, disability,

1 involuntary transfer of his or her spouse, or death of the
2 participant. After five years, the employee must withdraw from
3 active service upon completion of DROP. The employee shall not
4 participate in full or part-time employment with the local
5 school system upon completion of DROP.

6 "(d) A member who chooses to participate in DROP may
7 elect an option allowance set out for members of the Teachers'
8 Retirement System in subsection (h) of Section 16-25-14 at the
9 beginning of the participation period. Otherwise, he or she
10 shall receive the maximum benefit. Such election shall be
11 irrevocable once the participation period begins except as
12 otherwise provided in this chapter.

13 "(e) For purposes of DROP, sick leave may ~~not~~ be
14 converted for purposes of establishing retirement eligibility,
15 ~~nor~~ and used in the calculation of the original retirement
16 allowance except as provided in Section 16-25-151.

17 "(f) The election to participate in DROP shall be
18 made in accordance with procedures set forth in a uniform and
19 nondiscriminatory election and application form adopted by the
20 Board of Control. The election to participate in DROP may be
21 made at any time on or after the date the member becomes
22 eligible to participate as set out in subsection (b). Such
23 application must be made at least 30 days, but not more than
24 90 days, before the effective date of participation in DROP,
25 ~~and shall be made no later than March 24, 2011.~~ A member must
26 be eligible to participate, as provided above at the time the
27 application is made.

1 "(g) Upon the effective date of the commencement in
2 DROP, the member's service shall remain as it existed on that
3 date for the duration of DROP. Once a member enters DROP,
4 service credit purchases are prohibited. Both the employer and
5 employee member contribution shall continue to be made. The
6 monthly retirement allowance that would have been payable, had
7 the person elected to withdraw from service and receive a
8 retirement allowance, shall be paid into a DROP account that
9 reflects the credits attributed to the person in DROP.
10 However, the monies shall remain a part of the regular
11 retirement fund until disbursed to the participating member in
12 accordance with this section. Any monies paid into this
13 account are subject to the exemptions set out in Section
14 16-25-23.

15 "(h) ~~(1)~~ The DROP account shall earn annual interest
16 ~~at the same rate that interest is posted to active member~~
17 ~~accounts as defined in subdivision (15) of Section 16-25-1 on~~
18 ~~the greater of three percent or the yield for two-year United~~
19 ~~States Treasury notes for the previous fiscal year.~~ A person
20 who participates in this plan shall be eligible to receive a
21 retiree cost-of-living increase while participating in DROP,
22 and shall ~~not~~ be eligible for ~~a~~ retiree cost-of-living
23 ~~increase~~ increases beginning in 2016 until participation in
24 the plan ceases and he or she withdraws from service and has
25 been receiving a retirement allowance for at least one full
26 year.

1 ~~"(2) Notwithstanding any other provision of this~~
2 ~~chapter, for any member who has fulfilled his or her~~
3 ~~obligation under DROP and does not withdraw from service and~~
4 ~~any member who begins participation in DROP on or before April~~
5 ~~1, 2011, and fulfills his or her obligation under DROP and~~
6 ~~does not withdraw from service, the amount of interest payable~~
7 ~~on benefit deposits after March 24, 2011, shall be the lesser~~
8 ~~of (1) the investment performance of the immediately preceding~~
9 ~~fiscal year but no less than \$0, or (2) as provided in~~
10 ~~subdivision (1) of subsection (d) of Section 16-25-151.~~

11 "(i) DROP shall not be subject to any fees, charges,
12 or other similar expenses of any kind for any purpose.

13 "(j) Participation in DROP shall not affect the
14 rights of any education employee including, but not limited
15 to, ~~the Fair Dismissal Act, Section 36-26-100 et seq., the~~
16 ~~tenure law, Section 16-24-1, et seq.,~~ rights granted under the
17 Students First Act, Chapter 24C, Title 16, Code of Alabama
18 1975, or any other fringe benefit.

19 "(k) Participation in DROP shall not affect the
20 accrual of annual and sick leave by the participant.

21 "(l) Participants in DROP may receive salary
22 cost-of-living adjustments and salary increases.

23 "~~§36-27-170.~~

24 "(a) As governed by this subsection, there exists as
25 a part of this retirement system, an optional account known as
26 the Deferred Retirement Option Plan, which may be cited as
27 "DROP." The DROP program, which was ended for new

1 participation on March 24, 2011, pursuant to Act 2011-27, is
2 hereby reestablished for new participants on and after the
3 effective date of this amendatory act. The purpose of DROP is
4 to allow, contractually, in lieu of immediate withdrawal from
5 service and receipt of a retirement allowance, continued
6 employment for a specific period of time, coupled with the
7 deferral of receipt of a retirement allowance until the end of
8 such period of participation, at which time the member shall
9 withdraw from service.

10 "(b) Participation in DROP is an option available to
11 any member of this retirement system who meets all of the
12 following:

13 "(1) Has at least 25 years of creditable service
14 exclusive of sick leave for tier I retirement; or who has at
15 least 10 years of creditable service for tier II retirement.

16 "(2) Is at least 55 years of age for tier I
17 retirement, or in the case of a state police member, is at
18 least 52 years of age for tier I retirement; or who is at
19 least 56 years of age for tier II retirement, or in the case
20 of a state police member, who is at least 53 years of age.

21 "(3) Is eligible for service retirement.

22 "(4) Has an annual salary of not more than one
23 hundred twenty-five thousand dollars (\$125,000), adjusted for
24 inflation commencing January 1, 2017. It is further provided,
25 however, that an employee whose salary exceeds the limit
26 provided in this subdivision may participate up to the
27 \$125,000 limit if he or she is otherwise eligible.

1 "(c) An election to participate in DROP may be made
2 in one year increments not to exceed five years, nor to be
3 less than three years. A member may participate in DROP only
4 one time. Any voluntary termination ~~within the first three~~
5 ~~years~~ in DROP ~~will~~ shall not result in a forfeiture of a
6 portion of his or her DROP account that constitutes the
7 retirement allowance. ~~However,~~ nor shall member contributions
8 ~~will not be forfeited nor will~~ or any interest attributable to
9 the retirement allowance be forfeited. There ~~will~~ shall be no
10 forfeiture if the participation period is interrupted due to
11 an involuntary dismissal, disability, involuntary transfer of
12 his or her spouse, or death of the participant. After five
13 years, the employee must withdraw from active service upon
14 completion of DROP. The employee shall not participate in full
15 or part-time employment with the state upon completion of
16 DROP.

17 "(d) A member who chooses to participate in DROP may
18 elect an option allowance set out for members of the
19 Employees' Retirement System in subsection (d) of Section
20 36-27-16 at the beginning of the participation period.
21 Otherwise, he or she shall receive the maximum benefit. Such
22 election shall be irrevocable once the participation period
23 begins except as otherwise provided in this chapter.

24 "(e) For purposes of DROP, sick leave may ~~not~~ be
25 converted for purposes of establishing retirement eligibility,
26 ~~nor~~ and used in the calculation of the original retirement
27 allowance except as provided in Section 36-27-171. A person

1 electing to enter the DROP program is not eligible for a
2 lump-sum payment for any annual or sick leave until withdrawal
3 from service.

4 "(f) The election to participate in DROP shall be
5 made in accordance with procedures set forth in a uniform and
6 nondiscriminatory election and application form adopted by the
7 Board of Control. The election to participate in DROP may be
8 made at any time on or after the date the member becomes
9 eligible to participate as set out in subsection (b). Such
10 application must be made at least 30 days, but not more than
11 90 days, before the effective date of participation in DROP,
12 ~~and shall be made no later than March 24, 2011.~~ A member must
13 be eligible to participate, as provided above, at the time the
14 application is made.

15 "(g) Upon the effective date of the commencement in
16 DROP, the member's service shall remain as it existed on that
17 date for the duration of DROP. Once a member enters DROP,
18 service credit purchases are prohibited. Both the employer and
19 employee member contribution shall continue to be made. The
20 monthly retirement allowance that would have been payable, had
21 the person elected to withdraw from service and receive a
22 retirement allowance, shall be paid into a DROP account that
23 reflects the credits attributed to the person in DROP.
24 However, the monies shall remain a part of the regular
25 retirement fund until disbursed to the participating member in
26 accordance with this section. Any monies paid into this

1 account are subject to the exemptions set out in Section 36-27-28.

2 " (h) ~~(1)~~ The DROP account shall earn annual interest
3 ~~at the same rate that interest is posted to active member~~
4 ~~accounts as defined in subdivision (12) of Section 36-27-1~~ on
5 the greater of three percent or the yield for two-year United
6 States Treasury notes for the previous fiscal year. A person
7 who participates in this plan shall not be eligible to receive
8 a retiree cost-of-living increase while participating in DROP,
9 and shall ~~not~~ be eligible for ~~a~~ retiree cost-of-living
10 ~~increase~~ increases beginning in 2016 until participation in
11 the plan ceases and he or she withdraws from service and has
12 been receiving a retirement allowance for at least one full
13 year.

14 "~~(2)~~ Notwithstanding any other provision of this
15 chapter, for any member who has fulfilled his or her
16 obligation under DROP and does not withdraw from service and
17 any member who begins participation in DROP on or before April
18 1, 2011, and fulfills his or her obligation under DROP and
19 does not withdraw from service, the amount of interest payable
20 on benefit deposits after March 24, 2011, shall be the lesser
21 of ~~(1)~~ the investment performance of the immediately preceding
22 fiscal year but no less than \$0, or ~~(2)~~ as provided in
23 subdivision ~~(1)~~ of subsection ~~(d)~~ of Section ~~36-27-171~~.

24 "(i) DROP shall not be subject to any fees, charges,
25 or other similar expenses of any kind for any purpose.

26 "(j) Participation in DROP shall not affect the
27 rights of any state employee under the state personnel system,

1 including, but not limited to, his or her rights to longevity
2 pay.

3 "(k) Participation in DROP shall not affect the
4 accrual of annual and sick leave by the participant.

5 "(l) Participants in DROP may receive salary
6 cost-of-living adjustments and salary increases."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.